

COMMISSIONER OF POLITICAL PRACTICES



STATE OF MONTANA

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Confidentiality in Ethic Complaints as submitted to the Montana Commissioner of Political Practices

United States District Court - CV-16-102-H-BMM, Tschida v. Mangan

On December 15, 2017 United States District Court Judge Brian Morris issued an order in CV-16-102-H-BMM, Tschida v. Mangan. The order permanently enjoined application of the confidentiality provision contained in MCA 2-2-136(4) as applied to elected officials in the State of Montana when an ethics complaint is filed with the Montana Commissioner of Political Practices (COPP). Judge Morris also upheld the same confidentiality provision as applied to ethics complaints filed against state employees.

Effective immediately, the COPP will apply the ruling of Judge Morris to all future ethics complaints submitted to the Commissioner's office. What does this mean? Prior to the December 15 ruling, all ethics complaints submitted, or "lodged" with the COPP were considered confidential for both state employees and elected officials while the COPP determined whether the complaint would be accepted or rejected for filing. Following the ruling of Judge Morris, the COPP will:

State employees:

An ethics complaint, once submitted, is considered "lodged" with the COPP. The COPP will maintain the confidentiality of all non-elected state employees while it considers whether the lodged complaint concerns a person or activity under COPP jurisdiction. The complaint will be listed on the COPP website, identified by the initials of the complainant and respondent. After consideration the Commissioner will issue a written decision either accepting or rejecting the lodged ethics complaint for filing. A complaint that is accepted for filing will trigger a hearing process before the Commissioner. The confidentiality provision does not apply at the hearing stage.

Elected officials:

Confidentiality does not apply. An ethics complaint, once submitted, is considered "lodged" with the COPP. All lodged ethics complaints against an elected official will not be considered confidential while the COPP considers whether the lodged complaint concerns a person or activity under COPP jurisdiction. The complaint will be listed on the COPP website identified by the full name of the complainant and respondent. After consideration the Commissioner will issue a written decision either accepting or rejecting the lodged ethics complaint for filing. A complaint that is accepted for filing will trigger a hearing process before the Commissioner.

Information on ethic complaint and processes can be found at <http://politicalpractices.mt.gov/ethics>

Montana Commissioner of Political Practices